

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FILED
3-29-2010
MAR 29 2010

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

United States of America ex rel.

Mario D. Hawkins, N14062,
(Full name and prison number)
(Include name under which convicted)

PETITIONER ,

vs.

Austin S. Randolph, Jr., et al.,
(Warden, Superintendent, or authorized
person having custody of petitioner)

RESPONDENT and IDOC/PRB, et al.,
STATE OF ILLINOIS.

(Fill in the following blank only if judgment
attacked imposes a sentence to commence
in the future)

ATTORNEY GENERAL OF THE STATE OF
ILLINOIS, LISA M. MADIGAN.
(State where judgment entered)
Circuit Court/Cook County.

CASE NO: 10-C-0384.
(Supplied by Clerk of this Court)

*Honorable James F. Heidebrecht,
Presiding.*

Case Number of State Court Conviction:

AMENDED PETITION FOR WRIT OF HABEAS CORPUS - PERSON IN STATE CUSTODY

1. Name and location of court where conviction entered: Circuit Court/Cook County, 2650
South California Avenue, Chicago-Illinois, 60608.

2. Date of judgment of conviction: June 28, A.D., 2005.

3. Offense(s) of which petitioner was convicted (list all counts with indictment numbers, if known)

Violation of Order of Protection-Two Counts, Domestic Battery-Two Counts,
DUI/DWLS, Dissolution of Marriage.
4. Sentence(s) imposed: Six years & Six years consecutively, six and six years to
merge.

5. What was your plea? (Check one) (A) Not guilty ☒
(B) Guilty ☐
(C) Nolo contendere ☐

If you pleaded guilty to one count or indictment and not guilty to another count or indictment, give details:

Plead guilty to the traffic, due to the fact that my eldest sister died,
and having an outstanding warrant, in order to attend funeral/wake, had
to copout, so that the warrant could become quashed, then I could become
considered for furlough.

Revised: 7/20/05

PART I - TRIAL AND DIRECT REVIEW

1. Kind of trial: (Check one): Jury () Judge only (x)
2. Did you testify at trial? YES (x) NO ()
3. Did you appeal from the conviction or the sentence imposed? YES (x) NO (x)

(A) If you appealed, give the

- (1) Name of court: Appellate Court of Illinois/First District
(2) Result: Denied Without Prejudice/Appeal to IL.SUP.CT.
(3) Date of ruling: 01/13/2006.
(4) Issues raised: Arrest Without Warrant/Violation of Due Process,
Disparity, Double Jeopardy, Impermissible Double-Enhancement,
Excessive Sentencing, Excessive Bail, Violation of Equal Protections.

(B) If you did not appeal, explain briefly why not:

Originally, the attorney assured me that he would appeal, however
he told me that we had to hear the motion for reconsideration, yet,
he never contacted me and after trying repeatedly, time expired.

4. Did you appeal, or seek leave to appeal, to the highest state court? YES (x) NO ()

(A) If yes, give the

- (1) Result: Denied without any explanations whatsoever.
(2) Date of ruling: 7/07/2006.
(3) Issues raised: Same as indicated in Number-4, however MSR was
raised because plaintiff stated excessive sentencing and the
Court's failure to properly admonish him regarding MSR, an added
sentence.

(B) If no, why not: Court's failure to issue him a decision as to why

5. Did you petition the United States Supreme Court for a writ of *certiorari*? Yes () No (x)

If yes, give (A) date of petition: N/A (B) date *certiorari* was denied: N/A

PART II - COLLATERAL PROCEEDINGS

1. With respect to this conviction or sentence, have you filed a post-conviction petition in state court?

YES (X) NO ()

With respect to *each* post-conviction petition give the following information (use additional sheets if necessary):

A. Name of court: Circuit Court/Cook County.

B. Date of filing: November 08, 2006.

C. Issues raised: Violation of Equal Protections/Due Process/MSR, etc.

Excessive Sentencing/Bail, Arrest Without Warrant, Double Jeopardy, Impermissive Double-Enhancement/Concealment, Failure To Admonish, Sixth Amendment.

D. Did you receive an evidentiary hearing on your petition? YES () NO (X)

E. What was the court's ruling? Recharacterized motion under People v. Shellstrom, 216 Ill.2d 45.

F. Date of court's ruling: 11/08/2006.

G. Did you appeal from the ruling on your petition? YES (X) NO ()

H. (a) If yes, (1) what was the result? Court denied plaintiff's Amendment/off-call.

(2) date of decision: 11/08/2006.

(b) If no, explain briefly why not: Court issued its Order for plaintiff to amend, however, Court got its wires-crossed and created inordinate delay.

I. Did you appeal, or seek leave to appeal this decision to the highest state court?

YES (X) NO ()

(a) If yes, (1) what was the result? Plaintiff filed his own postconviction.

(2) date of decision: 12/08/2006.

(b) If no, explain briefly why not: Never hearing anything from the void-judgement, having jailhouse barrister experience, filed my own petition, however, since Court crossed its own wires, plaintiff stated these issues/claims, yet he was still denied due-process and inordinate delay took effect, due to counsel's ineffectiveness and Court's abuse-of-discretion, and this is when the merry-go-round and spin-treatment started.

2. With respect to this conviction or sentence, have you filed a petition in a **state court** using any other form of post-conviction procedure, such as *coram nobis* or habeas corpus? YES (X) NO (X)

A. If yes, give the following information with respect to each proceeding (use separate sheets if necessary):

1. Nature of proceeding Void-Judgement.
2. Date petition filed _____
3. Ruling on the petition 11/08/2006, Recharacterization.
4. Date of ruling 11/08/2006.
5. If you appealed, what was the ruling on appeal? Reversed/Summary Disposition.
6. Date of ruling on appeal July 02, 2007.
7. If there was a further appeal, what was the ruling? Denied Plaintiff's Opposition Motion.
8. Date of ruling on appeal July 03, 2007.

3. With respect to this conviction or sentence, have you filed a previous petition for habeas corpus in **federal court**? YES () NO (X)

A. If yes, give name of court, case title and case number: N/A.

B. Did the court rule on your petition? If so, state

- (1) Ruling: N/A.
- (2) Date: N/A.

4. With respect to this conviction or sentence, are there legal proceedings pending in any court, other than this petition? YES (X) NO (X)

If yes, explain: Plaintiff filed a notice of appeal from the denial of the reversal ruling and believing that he could not receive an impartial hearing, believing that the Court denied the appeal anyways, plaintiff withdraw the appeal because the Appellate Court originally denied him due process when he first/originally filed any petition, creating in-ordinate delay and musical chairs.

PART III - PETITIONER'S CLAIMS

1. State briefly every ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground. You may attach additional pages stating additional grounds and supporting facts. If you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds later.

BEFORE PROCEEDING IN THE FEDERAL COURT, YOU MUST ORDINARILY FIRST EXHAUST YOUR STATE COURT REMEDIES WITH RESPECT TO EACH GROUND FOR RELIEF ASSERTED.

(A) Ground one Arrested without a valid warrant.
Supporting facts (tell your story briefly without citing cases or law):

Plaintiff arrest resulted in violation of due process, because he was denied the chance/opportunity to appear before a neutral detached judge/magistrate without unnecessary delay within a 48-hours period, and being originally charged with a misdemeanor offense, denied bail, and was concealed, thus not having valid information, due process ensued.
Plaintiff was injured while in custody and was told that he if seeked hospital help, he would be denied the chance to appear before the Court, however, plaintiff never was taken to the hospital, and his rights was further denied by being illegally detained and then repeatedly questioned by the Assistant States Attorney, after telling her he had private counsel and she contacted counsel and told him false info.

(B) Ground two Ineffective Assistance of Counsel/Appellate Counsel.
Supporting facts:

Plaintiff states that his retained counsel, one: Patrick Fagan, assured him that he would file plaintiff's appeal after having the hearing on the motion for reconsideration, however, being that plaintiff was never contact and unawares of the rulings, going on an expedition, finds out that the Court denied motions, however, the time had expired and since counsel told plaintiff he would file the appeal, trying to contact attorney, attorney totally ignored calls/letters, therefore plaintiff filed a notice for a late notice of appeal to the Il.Sup.Ct., which denied the late appeal.

Plaintiff states that he was not at fault because counsel told him that he was going to file the appeal. Appellate Attorney failed to allow plaintiff to bring forth other issues/claims and being that the plaintiff filed the summary disposition petition himself, he wanted the Appellate Court to retain jurisdiction because he believed that the trial Court would issue an adverse ruling.

Revised: 7/20/05

- (C) Ground three ~~Excessive Sentencing/Failure To Admonish Regarding MSR.~~
Supporting facts:

~~Plaintiff states that due process was violated when the Court failed to properly admonish him regarding an additional sentence of MSR-TERM, and being that MSR-TERM is a sentence, additional as this Court ruled, plaintiff wholeheartly believes that his MSR-TERM, Parole, is unconstitutional and that he is being forced to do more time and that his due process rights are being infringed upon because he also has house arrest and that the Assistant States Attorney is repeatedly sending false information to the IDOC/PRB, in an attempt to keep plaintiff illegally detained and since plaintiff filed an emergency grievance concerning this MSR-TERM, never hearing from it and being well over (90) Days on it, he believes that he is entitled to monetary damages, for each day.~~

- (D) Ground four ~~Violation of Constitutional deprivations.~~
Supporting facts:

~~Plaintiff was forced to go on this fishing-expedition and after uncovering faults of the defendants, instead of them admitting up to the truth, instead they created inordinate delay and after plaintiff pointed out these errors, they (State), still allowed foul-play and plaintiff states that being arrested without a valid warrant suffices and shows cause, and that after serving his entire sentence issued by the Court, he is now serving an excessive sentence, because MSR-TERM is an additional sentence, and never responding to the plaintiff's emergency grievance, shows that the IDOC, along with the PRB, with respect, is violating and continues to violate the plaintiff's constitutional rights. MSR-TERM is additional sentence.~~

2. Have all grounds raised in this petition been presented to the highest court having jurisdiction?

YES ~~(X)~~ NO ()

~~Replied~~ If answered "NO" to question (2), state briefly what grounds were not so presented and why not:

*** Requests An In-Court Hearing***

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

FOR THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT, EASTERN DIVISION

A-F-F-I-D-A-V-I-T

I, Mario D. Hawkins, being duly sworn upon oath and under penalties of law, state:

That as the plaintiff in this pending cause of action, wholeheartly believes foul-play exists and that due to false allegations, in a related matter, plaintiff requested before these allegations proceeded further in a way of a filed order of protection against the plaintiff, being that these claims/issues are related and due to the significance of the relevancy, plaintiff requests to appear before this Court, because constitutional deprivations are being infringed upon and/or violated, and that this Court having subject matter jurisdiction, exceeds the State Courts, because petitioner issues/claims are related and in order to protect plaintiff's constitutional rights of due process and equal protections, plaintiff requests consolidation and/or a stay cause order, until the expiration of this hearing, otherwise, plaintiff is being subjected to serving more time and being denied his due process rights afforded him, which he is unable to raise otherwise, therefore a hearing is needed, and that petitioner intends to file a 1983 today. In furtherance, petitioner states that he wholeheartly believes a conspiracy has taken place and retaliatory inferences exist and that together, these parties are engaged in an attempt to send him back to the penitentiary and as stated to the petitioner, that his (MSR) does not expire until 2012, along with an Order of Protection, mind you, which never existed until, this 25th Day of March, 2010. FURTHER SAYETH NAUGHT:

Dated: 29 MARCH, A.D., 2010.


Affiant.

APPEARANCE FORM FOR PRO SE LITIGANTS
DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS

Information entered on this form is required for any person filing a case in this court as a pro se party (that is, without an attorney).

NAME:

MARCO D. HENDRICKS

(Please print)

STREET ADDRESS:

4909 West Huron Street

CITY/STATE/ZIP:

Chicago, IL 60649

PHONE NUMBER:

723/377-6981

CASE NUMBER:

10-C-0384

M. D. Hendricks

Signature

29 MAR 11 2010

Date

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

Mario D. Hawkins,
PLAINTIFF,

CASE NO. 10-C-0384.

VS.

Austin S. Randolph, Jr., et al
DEFENDANTS.

PROOF OF SERVICE

TO: Hon. Michael W. Dobbins (Clerk)
219 S. Dearborn Street/20th Floor
Chicago, Il. 60602

TO: Hon. Lisa M. Madigan (Attorney General)
100 W. Randolph Street/30th Floor
Chicago, Il. 60603

TO: Hon. Ed Bowers (Prisoner Review Board)
319 E. Madison Avenue/1A
Springfield, Il. 62701

I, the undersigned (plaintiff / defendant), certify that on the 26 day of MARCH, 2010, I served a copy of this AMENDED HABEAS CORPUS to each person whom it is directed by way of directly filing with the Clerk of the U.S. District Court today.

Name Mario D. Hawkins M-14062
Address 4909 West Huron Street
City/Zip Chicago, Il. 60644
Telephone 773/379-6981.


SIGNATURE / CERTIFICATION

29 MARCH 2010.
DATE